

House Bill 636

By: Representatives Mitchell of the 88th and Maxwell of the 17th

A BILL TO BE ENTITLED
AN ACT

To amend Article 9 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to criminal and related provisions pertaining to financial institutions, so as to provide for the protection of aged or incapacitated adults; to provide for mandated and voluntary reporting; to provide for civil penalties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 9 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to criminal and related provisions pertaining to financial institutions, is amended by inserting a new Code section as follows:

"7-1-847.

(a) As used in this Code section, the term:

(1) 'Aged or incapacitated adult' means a person 70 years of age or older and any person with mental or physical disabilities.

(2) 'Financial exploitation' means the illegal or impermissible taking, encumbering, or use of a person's funds, property, or assets.

(3) 'Financial institution' means such institutions as defined by Code Section 7-1-4.

(b) Any staff member of any financial institution who has reason to believe that a client of an institution is or has been exploited financially shall report such suspected exploitation to the local county or municipal law enforcement agency where the adult resides or where the exploitation is believed to have occurred.

(c) Any person and the employer of any person who makes a report, provides records or information to a representative for an aged or incapacitated adult or law enforcement officer, or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability on account of such report,

records, information, or testimony, unless such person acted in bad faith and with a malicious intent.

(d) For each willful violation of this Code section, the commissioner may assess upon any financial institution and upon any director, officer, or employee thereof who willfully participates in the violation a civil penalty not exceeding \$1,000.00 for each such violation. Each separate financial transaction shall be considered a separate violation. In the event of the failure of any person to pay any penalty assessed under this Code section, a civil action for recovery thereof may, in the discretion of the commissioner, be brought in the name of the Department of Banking and Finance. Any person who conducts or participates in financial exploitation of an aged or incapacitated adult shall, in addition to any other civil or criminal penalty, fine, or fee provided for by law, be liable to the state for a civil penalty of not more than the amount of the funds involved in the transaction or \$10,000.00, whichever is greater, which fee may be collected by the commissioner."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.